



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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Dear Interested Party:

I am writing to update you on implementation of a fuels reduction research project that this office analyzed and approved August 5, 2005, in the **Decision Memorandum on Action and for Application of Categorical Exclusion 1.12: Evaluation of Pinyon Removal Effects Typical of a Wildland-Urban Interface (WUI) Fuels Reduction Project, Mono Basin, CA; CER Number: CA-170-05-35**. This project is intended to reduce hazardous fuels on BLM public lands in the Rancheria Gulch and Trench Canyon areas of the Mono Basin by removing approximately 273 acres of pinyon trees scattered in small, 2.5 acre blocks throughout the project area.

The project will be conducted within parameters of a scientific research design, enabling the U.S. Geological Survey (USGS) to evaluate the effectiveness and environmental effects of two widely used fuels treatment methods – mechanically cutting, piling, and burning pinyon (when weather conditions allow for safe burning); and mechanically mulching the trees and leaving the mulched material on site. The resulting data from the scientific study of the project will help guide future land management agency decisions regarding pinyon pine fuels treatments.

In June and July 2005, prior to approving the project, this office provided public notice about the proposed action, soliciting input through various media sources and personal contacts via letters and personal communication with potentially affected parties, including local Native American representatives. The BLM held a public scoping meeting at the July 13, 2005, Mono Basin Regional Planning Advisory Committee meeting in Lee Vining. The public comment period was extended to allow for more input after this meeting. The BLM received 25 written comments and several verbal comments on the proposed action. The final decision memorandum and project approval included responses to issues and concerns the public raised, as well as some project modifications and stipulations based on their input. The BLM adjusted several treatment plots, responding to concerns from a neighboring landowner and allowed for public firewood gathering as a by-product of the project.

One appeal of the project decision was filed with the Department of the Interior Board of Land Appeals (IBLA), raising several concerns about the project. Administrative law judges at the IBLA reviewed the appeal and affirmed the BLM's decision in November 2005, stating that the appellant failed to prove harm from the decision and failed to show that the decision was in error.

Since the workforce necessary to implement this project was not available last fall, implementation was deferred to 2006. In the interim, our office has conducted five field trips to the treatment area for the interested public to learn more about the project. I participated in all five field tours along with numerous BLM staff. The first field tour took place September 10, 2005, and provided any interested party with an overview of the project purpose and a visit to portions of the project area. Ten people participated. A subsequent field tour was held on October 5, 2005, to provide local Native American parties (who were unable to participate in the September tour) as well as other interested individuals an opportunity to learn more about the project. Sixteen people participated.

At the request of several field tour participants, on May 17, 2006, BLM conducted a third tour of several completed fuels reduction projects in the region, where both hand cutting and mulching techniques had been used. Twelve people participated. The BLM facilitated a fourth field tour of the Mono Basin project area with USGS research personnel present to provide more information on the research components of the project on July 10, 2006. Twenty-three people participated. At the request of the Bridgeport Indian Colony, the BLM hosted a fifth field tour of the project area on August 26, 2006. Two individuals from the Mono Lake Paiute tribe participated.

Many individuals and organizations expressed support for the project, as approved, however many concerns were voiced as well. Most of these concerns have been addressed in the Decision Memorandum. A few, new and recurring concerns deserve airing and responses here.

- **Concern:** The Categorical Exclusion Decision Memorandum done for this project was not appropriate. Either an Environmental Assessment (EA) or Environmental Impact Assessment (EIS) should have been prepared because of the project's impacts to the Mono Basin.
- **BLM response:** On June 5, 2003, the Department of the Interior adopted a new categorical exclusion for hazardous fuels reduction from documentation in an EA or EIS. This proposed action clearly meets the requirements necessary for use of the specific hazardous fuels reduction categorical exclusion (1.12). Additionally, all actions proposed for categorical exclusion must be examined for exceptions. The deciding official, in this case the Bishop Field Manager, reviewed the applicable list of exceptions and determined that none existed. Additionally, the Decision Memorandum and Categorical Exclusion

documented and addressed the specific public issues and concerns raised in the project's scoping process.

This decision was appealable and one appeal was filed. This appeal to the Interior Board of Land Appeals (IBLA) asserted, among other issues, that the analysis failed to adequately consider various impacts to the Mono Basin. IBLA reviewed and affirmed the decision, stating that the decision was not in error and that all of the potential impacts allegedly not considered, were in fact adequately addressed in the decision document.

The project area occurs on BLM public lands outside the U.S. Forest Service administered Mono Lake Scenic Area. These BLM lands are subject to specific management guidelines and objectives set forth in the Bishop Field Office Resource Management Plan Environmental Impact Statement and Record of Decision (1993), not Scenic Area guidelines. There is no legally prescribed, management buffer between the boundary of the Scenic Area and BLM public land. The Proposed Action complies with the management guidelines and objectives in the Bishop Field Office Resource Management Plan as well as those outlined in the Bishop BLM Fire Management Plan Environmental Assessment and Decision Record (2004).

- **Concern:** The visual impact was not properly considered, especially given the proximity to the Mono Basin Scenic Area.
- **BLM response:** The Visual Resource Management (VRM) objective for the proposed treatment area is VRM Class II, which is to retain the overall, existing character of the landscape - Bishop Field Office Resource Management Plan (RMP) 1993. Management activities may be seen, but should not attract the attention of the casual observer. The management goal of VRM class II is that changes must repeat the basic elements of form, line, color and texture found in the predominant natural features of the characteristic landscape.

BLM uses a systematic process in analyzing potential visual impacts of proposed projects by viewing project areas from Key Observation Points (KOP) and assessing the visual contrast. Results are used as a guide (tempered by common sense) to ensure that every attempt is made to minimize potential visual effects if they exist and to ensure conformance with the prescribed VRM Class for the area if the project is to proceed.

The existing landscape consists of pinyon forest interspersed with natural open sagebrush glades, some well over 3 acres in size, which

are larger than the proposed treatment plots. The scale of the project plots relative to the visible expanse of the landscape is quite small. Treatments would not be a prominent feature of the view-shed, which includes portions of the Scenic Area. The project area can not be viewed from the scenic overlook near Conway Summit due to topography. At KOP1, the SW corner of an adjacent private property parcel, there will be no visible change to the viewshed as a control plot is located next to the property. At KOP2, the intersection of Highway 167 and Conway Road, where most casual observers would likely view the project, the density of distribution of open glades within the landscape, as well as color and textures found predominantly in the existing landscape will be repeated with project implementation. Management activities may be noticeable, but they will not permanently alter the visual resources from the key observation point. At the Mono Basin Visitor Center Overlook (KOP3) one can only discern the gross landscape features of the mountains, of Mono Lake and of Highway 395 road cuts, not individual glades that occur on the landscape.

Both Masticate-Mulch and Cut-Remove-Burn treatments would form glades repeating the mosaic pattern of the vegetation already in the landscape; sagebrush will be retained in all treatment plots; there will be no bare ground. Plots will retain their natural color. The slope of the project area would screen many of the plots so that they would appear much smaller or may be completely hidden by terrain in some cases.

Mitigation that was built into the project to ensure visual integrity included the relocation of several control plots to areas which are located next to private property.

Lastly, it is important to note that any changes are temporary. The pinyon will regenerate in the treatment plots and fire behavior plots over time. The anticipated final landform appearance will not draw the eye to the specific location of treatment plots or fire behavior plots. The magnitude of change should not be noticeable to the casual observer and the project does not violate the VRM Class II Standards for the Bodie Hills and Granite Mountain Management Areas as prescribed by the Bishop RMP.

- **Concern:** This project would be more appropriate if conducted outside the Mono Basin. Why does it have to occur in the Mono Basin?
- **BLM response:** Although the BLM Bishop Field Office manages thousands of acres of pinyon, 85% of these areas are within Wilderness Study Areas, where management guidelines would

preclude this project. The location of this project considered very specific criteria that would facilitate the implementation of the experimental design of this project as well as the long-term applicability of this research to other pinyon sites. The location of the project was chosen because the site provided the availability of, 1) a distinct pinyon density gradient, from high density to low density to test different treatment affects on the recovery of sagebrush-steppe based on different pinyon densities, 2) level to gently rolling topography, 3) good accessibility to plots from existing roads, and 4) it is one of the few extensive pinyon areas managed by the Bishop Field Office that is not within a Wilderness Study Area. No other locations within the Bishop Resource Area met these research criteria.

- **Concern:** The mulching (mastication) method of reducing fuels is inappropriate because it uses fossil fuels and appears to create more impacts to the area than other methods, i.e., impact to soils and encouraging noxious weeds.
- **BLM response:** This project's prescribed mechanical and manual means to implement the treatments represents the most commonly used methods currently used to remove pinyon. There is a balance of both methods in this project to allow for comparison of each method's relative effectiveness in reducing wildfire intensity, as well as contrasting the ecological effects of each. Both methods use fossil fuels in relatively small amounts when compared to the fossil fuel use that occurs in most wildfire suppression operations. In addition, the use of purely non-motorized methods, e.g., hand saws versus chainsaws is rarely employed and is largely impractical for larger scale, effective fuels reduction. There is no conclusive, scientific data to suggest that mastication / mulching treatments cause significant soil impacts or encourage invasive plants. Indeed, obtaining empirical data about the effects of mulching treatments is one of the primary purposes of this project.
- **Concern:** There are significant cultural resource sites in the project area that would be adversely impacted and the area is a Native American traditional cultural property.
- **BLM response:** Five hundred acres of complete, cultural resource inventory was conducted in 2004 and 2005 within the 273 acre project area by Far Western Anthropological Research Group, Inc. All archaeological sites and isolated finds were fully recorded. Test plots and project activities have been designed to avoid the archaeological sites. As a result no sites will be impacted by project activities.

While it has been asserted that the Rancheria Gulch project area is a Native American Traditional Cultural Property (TCP), the BLM in consultation with the Mono Lake Paiute and Bridgeport Indian Colony, and individual members of these groups, has received no information supporting designation of the area as a TCP.

- **Concern:** This project is just the beginning of widespread pinyon removal in the eastern Sierra under the guise of hazardous fuels reduction.
- **BLM response:** At present, no specific additional acreage in the Mono Basin has been identified for hazardous fuels reduction treatment. The 2004 Bishop Fire Management Plan does identify a need for future fuels reduction actions, with two emphasis areas being the Wild land-Urban Interface (WUI) and areas of pinyon – juniper encroachment into sagebrush-steppe plant communities. Any future proposed actions would be subject to site specific, environmental analysis and public involvement.
- **Concern:** The original research design that was included in the appendix to the decision called for leaving 20% of the pinyon trees in each plot. The decision specified removing all trees in each plot. Why can't you do more of a thinning treatment and leave more trees in each plot?
- **BLM response:** The initial 20% leave tree value was derived from previous USGS pinyon removal research sites on the Colorado Plateau where the project objectives were slightly different. BLM Bishop specified the removal of all pinyon trees in the treatment plots because this is the method that would be most effective, purely in terms of reducing wildfire intensity and on sites where BLM manages for sage grouse lek habitat characteristics. BLM has continued to evaluate whether some trees could be left for aesthetic and other values without compromising the purpose of the treatments and study design.

Because of the valuable scientific information this project will provide to this office and other land managers and applications for future pinyon treatments, it is an extremely important, time sensitive project. I am keenly aware of the concerns that have been expressed, having provided field tours and engaged in numerous personal communications, listening to and considering this input. I firmly believe however, that the real issues raised have been adequately addressed. What

remain are concerns, representing differing opinions on various facets of the project and the BLM mission.

I understand however, that these concerns are important to the individuals that have shared them. Therefore, to the extent that I have the authority to address these concerns without compromising the project purpose and timeline, I have remained open to addressing them. I have consulted with USGS and my staff, exploring options to do so. As a result, I have decided to modify the implementation of this project as follows. I believe these modifications will address most concerns while still achieving the project's objectives:

1. **Eliminate cutting pinyon altogether in the most visible plots:** All 12 of the cut plots slated for pinyon removal on the lower portion of Rancheria Gulch, which could be the most visible to the knowledgeable observer, will become control plots only. This means that no pinyon trees will be removed from these plots. Virtually all visible impacts of the project will be eliminated from locations within the Mono Basin Scenic Area. Eliminating these treatment plots will reduce replication but should not significantly compromise the research design.
2. **Leave 20 larger pinyon trees in every cut plot:** Twenty pinyon trees in each of the treatment plots will not be removed. For purposes of implementation, USGS calculated that leaving an average density of 20% of larger trees (over 6 meters tall) equates to approximately 20 trees per plot, which would not have a significant effect on fire intensity or compromise the research design. These 20 trees will be selected by the BLM and USGS and spaced appropriately to provide the minimum fire spread potential possible. Generally, the trees to remain will represent the largest and healthiest trees in each plot. This leave density will more closely approximate a thinning treatment rather than a clear-cut.
3. **Monitor for inadvertent cultural site discovery:** A local Native American monitor with cultural resource recognition experience will be contracted and on site during critical periods of the project implementation to help identify any cultural resource sites that may be inadvertently discovered.

My staff and I have prepared a Determination of NEPA Adequacy (DNA), addressing these modifications, all of which would reduce the potential environmental effects of the project without substantially reducing its purpose and effectiveness. I have determined that the existing Decision Memorandum and Categorical Exclusion document adequately analyzed the project in light of these minor modifications and that no further environmental analysis is required.

The DNA, as well as the Decision Memorandum Categorical Exclusion is available upon request from this office.

If you feel you are adversely affected by the modifications cited above, you may appeal to the Interior Board of Land Appeals (IBLA.) *Only the modifications to the original decision are appealable.* The original decision is not appealable, as IBLA has previously reviewed and affirmed it, which constitutes the final administrative review. Information on how to file an appeal is attached.

This extremely important project with relatively minor environmental impacts will guide future application of fuels treatments throughout the Great Basin. The preponderance of scientific evidence indicates that vegetative fuels throughout the pinyon woodlands of the eastern Sierra, including the Mono Basin, are now well outside their natural range of variability for current climatic conditions, making these areas highly susceptible to large, high-intensity wildland fires. Reducing this hazardous fuels buildup to protect communities and valuable natural resources is among the highest priorities for BLM today. As land management agencies increasingly apply various fuels treatments across the landscape, it is crucial to understand which types of treatments are most effective and beneficial, both ecologically and economically, and to use them appropriately. As a BLM manager, I want to apply the best science possible to these important management decisions.

The data gleaned from the research component of this project will help facilitate more scientifically informed decisions that need to be made in the immediate future, concerning critical wildfire and fuels management in the Mono Basin and elsewhere. Secondly, the treatments applied in the project area will directly reduce the intensity of potential wildfires in that area. For these reasons, it is imperative that this project be implemented as soon as possible. Implementation, with the modifications prescribed above will begin in mid-September, 2006.

Thank you for your interest in this project and in the management of your public lands. Should you have questions or concerns, please contact me.

Sincerely,



Bill Dunkelberger  
Bishop Field Manager

## Administrative Review or Appeal Opportunities

This wildfire management decision is issued under 43 CFR Part 5003.1 and is effective September 15, 2006. The BLM has made the determination that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels build up, or other reasons, or at immediate risk of erosion or other damage due to wildfire. Additionally, the data resulting from the research component of this decision will facilitate more informed decisions concerning critical wildfire and fuels management that need to be made in the immediate future. Thus, notwithstanding the provisions of 43 CFR 4.21(a) (1), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision.

If any party with standing is adversely affected by this action, there is a right of appeal to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations in 43 CFR Part 4, Subpart E. If an appeal is taken, the notice of appeal must be filed in the Bishop Field Office of the Bureau of Land Management, 351 Pacu Lane, Suite 100, Bishop, California 93514 within thirty (30) days from the receipt of this decision. **The appellant has the burden of showing that the decision appealed from is in error.** Do not send the appeal directly to the Board. A copy of the notice of appeal and of any statement of reasons, written arguments, or briefs must be served upon any adverse parties, and in addition to the Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California, 95825-1890, within fifteen (15) days of the filing of any specific document. The Interior Board of Land Appeals must decide an appeal of this decision within 60 days after all pleadings have been filed, and within 180 days after the appeal was filed as contained in 43 CFR 4.416.

If the procedures set forth in the regulations are not followed, an appeal is subject to dismissal. Form 1842-1 is enclosed for additional information.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California, 95825-1890,

at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted,
- and
- (4) Whether the public interest favors granting the stay.

For further information on appeal opportunities and procedures, see the 43 CFR parts and subparts listed above, or contact the individual listed below.

#### **Contact Person**

For additional information concerning this decision, contact Anne Halford, Botanist, Bishop Field Office, 351 Pacu Lane, Suite 100, Bishop, CA 93514. Telephone number is (760) 872-5022.